

CCRB INVESTIGATIVE RECOMMENDATION

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|---|-------------------------------------|---------------------------|--|------------------------------------|---------------------------------|
| Investigator: Justin Huang | Team: Squad #04 | CCRB Case #: 201907897 | <input type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Tuesday, 09/03/2019 2:57 PM | Location of Incident: § 87(2)(b) | 18 Mo. SOL 10/18/2021 | Precinct: 61 | | |
| Date/Time CV Reported Fri, 09/06/2019 12:27 PM | CV Reported At: CCRB | How CV Reported: Phone | Date/Time Received at CCRB Fri, 09/06/2019 12:27 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |

| Subject Officer(s) | Shield | TaxID | Command |
|--------------------------|--------|--------|---------|
| 1. POM Shilendra Sawh | 06697 | 931975 | 061 PCT |
| 2. LT Dariusz Gazda | 00000 | 944266 | 061 PCT |
| 3. POM Louis Carrion | 07768 | 960331 | 061 PCT |
| 4. POM Thomas Costarella | 27224 | 938273 | 061 PCT |
| 5. POF Claudia Pinzon | 14353 | 966278 | 061 PCT |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|---------------------------|-----------|--------|----------|
| 1. POM Osvaldo Marcillo | 07412 | 938932 | 061 PCT |
| 2. POM Agron Pervizi | 31882 | 957029 | 061 PCT |
| 3. POM Zacarias Rodriguez | 12985 | 967666 | REC TNG |
| 4. POM Cameron Wong | 15998 | 967725 | REC TNG |
| 5. POM Ryan Ferrari | 19455 | 959634 | 061 PCT |
| 6. POM Fausto Moissantos | 15637 | 967612 | REC TNG |

| Officer(s) | Allegation | Investigator Recommendation |
|---------------------------|---|-----------------------------|
| A . POM Thomas Costarella | Abuse: Police Officer Thomas Costarella entered § 87(2)(b) in Brooklyn. | § 87(2)(g), § 87(4-b) |
| B . POM Louis Carrion | Abuse: Police Officer Louis Carrion entered § 87(2)(b) in Brooklyn. | § 87(2)(g), § 87(4-b) |
| C . POF Claudia Pinzon | Abuse: Police Officer Claudia Pinzon entered § 87(2)(b) in Brooklyn. | § 87(2)(g), § 87(4-b) |
| D . POM Shilendra Sawh | Abuse: Police Officer Shilendra Sawh stopped § 87(2)(b) | § 87(2)(g), § 87(4-b) |
| § 87(2)(g), § 87(4-b) | § 87(2)(g), § 87(4-b) | § 87(2)(g), § 87(4-b) |
| § 87(2)(g), § 87(4-b) | § 87(2)(g), § 87(4-b) | § 87(2)(g), § 87(4-b) |
| § 87(2)(g), § 87(4-b) | § 87(2)(g), § 87(4-b) | § 87(2)(g), § 87(4-b) |

Case Summary

On September 6th, 2019, § 87(2)(b) filed this complaint with the CCRB via telephone (BR 01).

On September 3rd, 2019, at approximately 2:57PM, Police Officer Shilendra Sawh, Police Officer Thomas Costarella, Police Officer Louis Carrion, Police Officer Claudia Pinzon, Lieutenant Dariusz Gazda, and additional officers, all from the 61st Precinct, responded to a 911 call about a woman, identified by the CCRB as § 87(2)(b) stealing packages and placing them in the house located at § 87(2)(b) in Brooklyn. PO Costarella, PO Carrion, and PO Pinzon entered the house (Allegation A, B, and C: Abuse of Authority, § 87(2)(g) PO Sawh stopped § 87(2)(b) as she was trying to enter her house (Allegation D: Abuse of Authority, § 87(2)(g)

§ 87(2)(g), § 87(4-b)

No arrest or summons were made as a result of this incident.

The CCRB obtained BWC footage of the incident (BR 03, BR 04, BR 05, BR 27). In addition, footage from security cameras at the house on § 87(2)(b) were provided by § 87(2)(b) (BR 18, BR 19).

Findings and Recommendations

Allegation A – Abuse of Authority: Police Officer Thomas Costarella entered § 87(2)(b) in Brooklyn.

Allegation B – Abuse of Authority: Police Officer Louis Carrion entered § 87(2)(b) in Brooklyn.

Allegation C – Abuse of Authority: Police Officer Claudia Pinzon entered § 87(2)(b) in Brooklyn.

It is undisputed that there was a 911 call about a female stealing packages from in front of a building and taking them to her house (BR 12). It is undisputed that PO Costarella, PO Carrion, and PO Pinzon entered § 87(2)(b)

Multiple officers from the 61st Precinct including Police Officer Shilendra Sawh, Police Officer Thomas Costarella, Police Officer Louis Carrion, Police Officer Claudia Pinzon, Lieutenant Dariusz Gazda, Police Officer Osvaldo Marcillo, Police Officer Agron Pervizi, Police Officer Zacarias Rodriguez, Police Officer Cameron Wong, Police Officer Ryan Ferrari, and Police Officer Fausto Moissantos responded to the call.

§ 87(2)(b) stated that she witnessed PO Sawh and PO Marcillo standing in front of her mother, § 87(2)(b) to prevent her from entering the house. PO Marcillo told § 87(2)(b) that someone called 911 and reported an individual who stole packages and entered their house. § 87(2)(b) later reviewed surveillance footage of the cameras in and around her home (BR 02). At 00:24 minutes, PO Costarella, PO Carrion, and PO Pinzon enter the basement of § 87(2)(b) house (BR 18). At 01:05 minutes from footage of a security camera inside the house, PO Costarella and PO Pinzon enter the kitchen and PO Costarella look through several packages on the dining room table (BR 19). At 01:42 minutes, PO Costarella, PO Pinzon, and PO Carrion leave the interior of the house through the same door they used to enter the kitchen (BR 19).

PO Costarella's BWC recording shows PO Costatello and a group of other uniformed officers walk up the porch of § 87(2)(b) and knock on the front door. At 1:47 minute mark, PO Costatello rings the doorbell several times and picks through the glass door. At 2:20 minute mark, a female voice replies, "Hello." It is unclear if she responds from behind the front door. Only the female's voice is captured. PO Costatello knocks on the front door again and says that they are the police. The officers take a photo of the packages through the glass door to determine the address. At 3:35 minute mark, the officers continue to knock on the front door. At 4:18 minute mark, PO Costatello walks down the steps at the front of the house. At 04:30 minutes, PO Costarella walks through a white gate to the side of the house and walks to the backyard. At 05:03 minutes, PO Costarella approaches an open door that leads downstairs to a lower level (basement). PO Costarella walks down the stairs, knocks on the door, and says, "Hello?" At 05:18 minutes, PO Costarella enters through the door and into the basement (**BR 03**).

PO Carrion's BWC recording shows PO Carrion walking down the front steps of the house. At 04:15 minutes, PO Carrion walks through a white gate to the side of the house and goes to the backyard. At 05:10 minutes, PO Carrion walks up behind PO Costarella, who is at the basement door. PO Costarella then walks through the basement door. PO Carrion goes in after PO Costarella (**BR 04**).

PO Pinzon's BWC recording shows PO Pinzon walking up to the front steps and standing at the front steps, while other officers are either standing around the sidewalk or at the front door (**BR 05**). At 00:01 minutes of a separate BWC clip, PO Pinzon, located at the back of the house, walks in through an open basement door right after PO Carrion (**BR 27**).

PO Costarella stated that he responded to a 911 call about a black female suspect who stole packages. PO Costarella and other officers met the 911 caller on-scene. The 911 caller, later identified as § 87(2)(b) told the officers that he saw a black female take packages from an address further up the block and then place the packages at § 87(2)(b) § 87(2)(b) led the officers to the house. PO Costarella walked up the stairs to the front door of the house. The front glass door was locked, but the front door behind the glass door was open. PO Costarella rang the doorbell and knocked, but no one answered the door. PO Costarella did not recall hearing any voices or seeing signs of anyone from inside the house. PO Costarella saw several packages through the glass door but could not make out the labels on the packages. PO Costarella decided to go around the side to the rear of the house to investigate, and to see if there was anyone at the house. PO Costarella did not provide any other reason for going to the rear of the house. PO Costarella approached the basement door in the rear of the house. The basement door was open. PO Costarella knocked and said, "Police" several times. No one responded. PO Costarella did not hear any noise coming from the basement, nor did he see anyone inside. PO Costarella then entered the basement. PO Costarella entered the basement because he saw the basement door ajar, and, based on his experience, believed that there was either a burglary or home invasion in progress. PO Costarella did not observe any other signs indicative of a home invasion or burglary. PO Costarella based his assumption solely on his prior experience (**BR 16**).

PO Carrion's statement was generally consistent with PO Costarella's testimony, with the following exceptions and additional information. PO Carrion accompanied PO Costarella to the front door and also noticed packages inside the house. PO Carrion heard a female voice say, "Hello," from a doorbell-camera, but did not see anyone inside, nor did anyone come to the front door. PO Carrion then went to the back of the house to see if anyone was there. PO Carrion followed PO Costarella into the basement via an open door out of concern for PO Costarella's safety, due to the nature of the 911 call, and because he believed that someone was in the house. PO Carrion stated that it is standard procedure to "never let one cop go in one area by himself." There was no other reason for

which PO Carrion entered the basement (BR 06).

PO Pinzon's statement was generally consistent with PO Costarella's testimony, with the following exceptions and additional information. After arriving at the scene and speaking with the 911 caller, PO Pinzon saw PO Costarella and other officers walk around to the back of the house. PO Pinzon stated followed PO Costarella and PO Carrion to the backyard out of concern for their safety, and to look for the female suspect. There was no other reason for which PO Pinzon decided to follow PO Costarella and PO Carrion. When PO Pinzon reached the rear of the house, she saw PO Costarella and PO Carrion enter the basement. PO Pinzon did not see if the officers opened the basement door or if it was already opened. PO Pinzon followed the officers into the basement out of concern for their safety. There was no other reason for which she decided to enter the basement (BR 07).

Officers did not possess a search warrant for this location.

Provided that there is probable cause, the police may proceed without a warrant to enter a home if exigent circumstances exist to justify a warrantless entry. In determining whether exigent circumstances exist, the courts consider the following factors: a) the gravity or violent nature of the offense with which the suspect is to be charged, b) whether the suspect is reasonably believed to be armed, c) a clear showing of probable cause to believe the suspect committed the crime, d) strong reason to believe that the suspect is in the premises being entered, e) a likelihood that the suspect will escape if not swiftly apprehended, and f) the peaceful circumstances of the entry. People v. McBride, 14 N.Y.3d 440 (2010) (BR 08).

§ 87(2)(g)

First, the suspected crime, theft of packages, was not violent in nature. Second, the officers were in the very beginning phase of their investigation and at the time of the entry did not have an identified suspect. Third, there was no concern that the suspect was armed or otherwise violent. Fourth, there was no reason to believe the suspect would attempt to flee or otherwise evade the police. § 87(2)(g)

Allegation D – Abuse of Authority: Police Officer Shilendra Sawh stopped § 87(2)(b)

It is undisputed that PO Sawh stopped § 87(2)(b) in front of her house.

§ 87(2)(b) stated that she arrived home and tried to go inside but PO Sawh stopped her from doing so. § 87(2)(b) asked PO Sawh why the officers were there. PO Sawh asked § 87(2)(b) for her identification, and she told him that it was in the house. PO Sawh did not allow her to enter the house. PO Sawh explained to her that the police were investigating packages that were taken from § 87(2)(b) and brought to her house. § 87(2)(b) told PO Sawh that the packages belonged to the parents of the children she was babysitting, and that she brought them into her house for safekeeping. § 87(2)(b) wanted to get the packages from inside the house to show that what she said was true. PO Sawh did not allow her to enter the house. PO Sawh provided a business card to § 87(2)(b) (BR 09).

§ 87(2)(b) stated that she arrived at the house and saw PO Sawh and PO Marcillo standing in front of § 87(2)(b) blocking her from entering the home or leaving the location. § 87(2)(b) approached them and asked what was happening. PO Sawh told § 87(2)(b) that someone called the police and said that a woman stole packages and ran into their home. PO Sawh later told § 87(2)(b) that a

report would be made without her mother's name and that it would note that a woman was detained at their address (BR 02).

PO Sawh stated that he and PO Marcillo responded to a call for a larceny in progress at the incident location. PO Sawh learned over the radio that a male called 911 and reported that a black female took several packages from his neighbor's porch. § 87(2)(b) PO Sawh arrived and spoke to the 911 caller. § 87(2)(b) said that he saw a female take several packages from his neighbor's porch and walked away with two kids. § 87(2)(b) did not know the female. When § 87(2)(b) confronted the female, and asked her about the packages, she yelled at him and walked away. § 87(2)(b) then pointed at § 87(2)(b) and said that he saw her enter the house with the packages. § 87(2)(b) arrived at the location while PO Sawh spoke with § 87(2)(b) § 87(2)(b) was visibly upset and irate. PO Sawh stepped in-between § 87(2)(b) and § 87(2)(b) to prevent them from getting physical towards each other. § 87(2)(b) pointed at § 87(2)(b) and stated that she was who he saw take the packages. § 87(2)(b) said that she was permitted to take the packages and that she resided at § 87(2)(b) PO Sawh stopped § 87(2)(b) once § 87(2)(b) identified her as the perpetrator they were looking for. PO Sawh stopped § 87(2)(b) so that the rest of the officers could investigate further and determine what was going on. There was no other reason for which PO Sawh stopped § 87(2)(b) After PO Sawh learned that § 87(2)(b) was allowed to take the packages, PO Sawh asked § 87(2)(b) for her identification to complete the Stop Report for this incident (BR 10).

PO Sawh's BWC recording is consistent with testimonies from § 87(2)(b) and PO Sawh. At 04:46 minutes, § 87(2)(b) identifies § 87(2)(b) (as she is walking down the street) as the woman who took the packages. At 05:28 minutes, PO Sawh places his hands on § 87(2)(b) shoulders and stops her from approaching § 87(2)(b) and later prevents her from going into the house. PO Sawh asks for § 87(2)(b) identification. At 06:33 minutes, PO Sawh tells § 87(2)(b) not to go anywhere, and that the police are trying to figure out what is going on. At 07:22 minutes, PO Sawh tells § 87(2)(b) to give her keys to one of the children with her and for the children to bring out the packages. At 09:05 minutes, PO Sawh takes a picture of § 87(2)(b) identification and tells § 87(2)(b) that he needs to take down her information (BR 11).

ICAD § 87(2)(b) reads that at 2:53 PM, a male caller reported that a female individual was stealing packages. The description was given for a female wearing blue jeans, a pink shirt, and speaking with a Jamaican accent. At 2:55 PM, the male caller reported that he was standing outside the female's house. At 3:03 PM, § 87(2)(b) was stopped in regards (BR 12).

A Stop Report was prepared by PO Swah (BR 29). PO Swah documented that he backed up on a larceny in progress at § 87(2)(b) on September 3, 2019. At approximately 3:05 p.m., a female was stopped in front of § 87(2)(b) in regard to the job after being pointed out by the witness/caller. The female's identification was obtained. The reason for the stop was explained to her and she was given a business card. An investigation revealed that no crime occurred.

A stop is warranted if an officer has reasonable suspicion that an individual has committed, is committing, or will commit a crime. People v. De Bour, 40 N.Y.2d 210 (1976) (BR 13). An officer may stop an individual based on the contents of a description of a suspect provided that the individual stopped matches the description and was found within close geographical and temporal proximity of the reported crime. People v. Holland, 4 A.D.3d 375 (2004) (BR 14).

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

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Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been party (BR 22)
- This is the first CCRB complaint to which § 87(2)(b) has been party (BR 23).
- PO Costarella has been a member of service for fourteen years and has been a subject in nine previous complaints and twenty two allegations, none of which were substantiated. § 87(2)(g)
- PO Carrion has been a member of service for four years and this is the first CCRB complaint to which he has been a subject. § 87(2)(g)
- PO Pinzon has been a member of service for one year and this is the first CCRB complaint to which she has been a subject. § 87(2)(g)
- PO Sawh has been a member of service for seventeen years and has been a subject in six previous complaints and nine allegations, of which one was substantiated:
 - 201213522 involved a substantiated allegation of abuse of authority against PO Sawh. The Board recommended charges. The case was dismissed and closed by the APU.
 - § 87(2)(g)
- LT Gazda has been a member of service for twelve years and this is the first CCRB complaint to which he has been a subject. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- § 87(2)(b) declined to mediate this complaint.
- As of January 27th, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR 26).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 4 _____

Investigator: Justin Huang _____
Signature Print Title & Name Date
Justin Huang

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date

